

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Aurora Corporation of Illinois :

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Corporation Franchise Tax :
under Article 9 & 9A of the Tax Law
for the F/Y/E 5/31/71 & 6/71-12/71. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of November, 1980, he served the within notice of Decision by certified mail upon Aurora Corporation of Illinois, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Aurora Corporation of Illinois
5700 West Roosevelt Rd.
Chicago, IL 60650

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
28th day of November, 1980.

Suzanne A. Bank

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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AFFIDAVIT OF MAILING

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of November, 1980, he served the within notice of Decision by certified mail upon Robert E. Littlefield the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Robert E. Littlefield
Littlefield & Bogdan
150 State St.
Albany, NY 12207

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
28th day of November, 1980.

Robert A. Beck

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

November 28, 1980

Aurora Corporation of Illinois
5700 West Roosevelt Rd.
Chicago, IL 60650

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Robert E. Littlefield
Littlefield & Bogdan
150 State St.
Albany, NY 12207
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

| | | |
|---|---|----------|
| In the Matter of the Petitions | : | |
| of | : | |
| AURORA CORPORATION OF ILLINOIS | : | DECISION |
| for Redetermination of a Deficiency or | : | |
| for Refund of Corporation Tax and Fran- | : | |
| chise Tax on a Business Corporation | : | |
| under Articles 9 and 9A of the Tax Law | : | |
| for the Fiscal Year Ended May 31, 1971 | : | |
| and the period June 1, 1971 through | : | |
| December 31, 1971. | : | |

Petitioner, Aurora Corporation of Illinois, 5700 West Roosevelt Road, Chicago, Illinois 60650, filed petitions for revision of a determination or for refund of corporation tax and franchise tax on a business corporation under Articles 9 and 9-A of the Tax Law for the fiscal year ended May 31, 1971 and the period June 1, 1971 through December 31, 1971 (File No. 11664).

A formal hearing was held before Louis M. Klein, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on May 9, 1977 at 9:15 A.M. Petitioner appeared by Littlefield & Bogdan (Robert E. Littlefield, Esq., of counsel). The Audit Division appeared by Peter Crotty, Esq. (James J. Morris, Esq., of counsel).

ISSUES

I. Whether the Corporation Tax Bureau's disallowance of the current portion of the long-term debt of the corporation for 1971 was proper under section 208.7 of the Tax Law.

II. Whether the Corporation Tax Bureau's imposition of an additional license fee on the corporation for 1971 was proper under section 181 of the Tax Law.

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

2. The second part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

3. The third part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

4. The fourth part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

5. The fifth part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

6. The sixth part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

7. The seventh part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

8. The eighth part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

9. The ninth part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

10. The tenth part of the document is a letter from the President to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

III. Whether section 181 of the Tax Law denies foreign corporations equal protection of the law and is, therefore, unconstitutional.

FINDINGS OF FACT

1. Petitioner, Aurora Corporation of Illinois (hereinafter "Aurora"), is a manufacturing corporation incorporated in the State of Illinois on January 7, 1959. It began doing business in New York State on October 1, 1959. Petitioner timely filed corporation franchise tax reports under Article 9-A of the Tax Law for the fiscal year ended May 31, 1971 and for the period June 1, 1971 through December 31, 1971.

2. On September 17, 1973, the Corporation Tax Bureau issued two statements of audit adjustment for the period ended December 31, 1971. One was issued for an additional license fee of \$124,308.51 and one for an additional franchise tax of \$351.55. Notices of deficiency issued to petitioner on November 15, 1973 asserted a license fee due of \$124,308.51, plus interest of \$12,430.86, and a franchise tax of \$351.55, plus interest of \$35.16.

3. On February 1, 1974, petitioner filed petitions for redetermination or for refund of the asserted deficiencies.

4. In 1971, petitioner changed its capital structure. Prior to the change, 962,371 shares of \$1.00 par value stock were issued and outstanding. After the change, there were 12,029,638 shares of stock without par value, having a stated value of \$1,402,371, issued and outstanding.

5. The Corporation Tax Bureau disallowed the current portion of petitioner's long-term debt as shown on petitioner's Corporation Franchise Tax Returns for 1971. Petitioner did not allege nor argue any error in the computation, nor in the applicability of section 208.7 of the Tax Law under which the disallowance was made.

6. Petitioner contended that section 181 of the New York State Tax Law denied equal protection of the laws as required by the New York State and United States Constitutions, in that its capital was taxed at a rate different from that applied to a domestic corporation.

CONCLUSIONS OF LAW

A. That section 181.1 of the Tax Law provides for a license fee for foreign corporations doing business in this state (except for certain banking and insurance corporations). The license fee is 1/8th of 1 percent on a corporation's issued par value capital stock employed within New York and six cents per share on each share of its capital stock without par value employed within New York. The fee is for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state. Thus, when petitioner changed its capital structure from 962,371 shares of \$1.00 par value stock to 12,029,638 shares of stock without par value, it became subject to the license fee calculated by the Corporation Tax Bureau. (It is noted that foreign corporations are not subject to the Organization Tax and taxes on change of capital set forth in section 180 of the Tax Law which apply to New York corporations).

1947, the first of which was the "National Conference on the

United States of America" held in Washington, D.C. in 1947. The purpose of this conference was to discuss the future of the United States and the role of the federal government in the post-war world.

The conference was attended by representatives from all branches of the federal government, as well as members of the public. It was a landmark event in the history of the United States, as it marked the first time that the public had a direct say in the future of the country.

The conference was held in a large hall in Washington, D.C. and was attended by thousands of people. It was a historic moment in the history of the United States, as it marked the first time that the public had a direct say in the future of the country.

THE NATIONAL CONFERENCE ON THE UNITED STATES OF AMERICA

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THE NATIONAL CONFERENCE ON THE UNITED STATES OF AMERICA

B. That the constitutionality of the laws of the State of New York is presumed at the administrative level of the New York State Tax Commission. There is no jurisdiction at the administrative level to declare such laws unconstitutional. Accordingly, section 181.1 of the Tax Law is presumed to be constitutional.

C. That petitioner has not sustained the burden of proof imposed by section 1089(e) of the Tax Law to show that the Corporation Tax Bureau's disallowance of the current portion of petitioner's long-term debt as shown in its Corporation Franchise Tax Report for 1971 was improper.

D. That the petitions of the Aurora Corporation of Illinois are denied and the notices of deficiency issued November 15, 1973 are hereby sustained.

DATED: Albany, New York

NOV 28 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

3-5 NOV

James Watson
Superintendent
John H. D. D. D.